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January 16, 2018

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **Wireless Internet Service Providers Association  
GN Docket No. 17-258  
Notice of Oral Ex Parte Presentation**

Dear Ms. Dortch:

On January 11, 2018, on behalf of the Wireless Internet Service Providers Association (“WISPA”), Board members Chuck Hogg, Mark Radabaugh, Jimmy Carr and Jeff Kohler, along with undersigned counsel to WISPA, met with Commissioner Brendan Carr and his Legal Advisor Nirali Patel to discuss issues related to the above-referenced proceeding.<sup>1</sup>

The WISPA representatives noted that our members are deploying private, at-risk capital to bridge the digital divide in rural America. We emphasized that licensed, mid-band spectrum in the form of Priority Access Licenses (“PALs”) in the Citizens Broadband Radio Service (“CBRS”) band will be critical for connecting unserved and underserved Americans in rural areas, because it (1) enables wireless internet service providers (“WISPs”) to offer service to customers lacking line-of-sight to transmit locations, and (2) provides additional capacity in areas where WISPs are using all available unlicensed spectrum, and are therefore unable to connect additional customers.

The WISPA representatives emphasized that the current CBRS rules that were adopted in 2015 should be maintained to harness private capital to connect underserved Americans and to support innovation. In particular, we urged that census tracts be retained as the geographic area for all seven PALs in all areas of the country. Allocating PALs on the basis of census tracts will enable mobile carriers and a broad variety of other use cases – such as WISPs, schools, hospitals,

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<sup>1</sup> *Promoting Investment in the 3550-3700 MHz Band; Petitions for Rulemaking Regarding the Citizens Broadband Radio Service*, GN Docket No. 17-258, RM-11788 (Terminated) and RM-11789 (Terminated), FCC 17-134 (Oct. 24, 2017) (“*CBRS NPRM*”).



internet-of-things companies, agribusinesses, mining and industrial users, airports, seaports, hotels, stadiums, arenas and race tracks – to compete in PAL auctions. By contrast, proposals in the *CBRS NPRM* to enlarge PAL areas to Partial Economic Areas (“PEAs”) or counties, and to significantly extend license terms, would foreclose auction participation for all but a few large mobile wireless carriers. The WISPA representatives explained that modifying the PAL rules in the manner proposed in the *CBRS NPRM* would only benefit the mobile-carrier use case to the competitive detriment of all other use cases and would be inconsistent with the rules adopted in 2015.

The WISPA representatives reviewed the attached map (Appendix A) to demonstrate that licensing by census tracts will, in rural areas, enable WISPs and other competitive providers to bid for PALs of mid-band spectrum that they can use to help bridge the digital divide. Among other things, the map shows that census tracts are the most logical geographic area for PALs, because mobile carriers *and* other use cases can maximize their bids in the discrete areas where they will be the highest and best users of the spectrum, but that requiring bidders to acquire PEAs or counties would significantly raise barriers to entry by dramatically increasing the amount of money it would take to purchase PALs for such large geographic areas. In addition, we noted that unserved and extremely high cost areas preliminarily designated for Connect America Fund (“CAF”) Phase II support frequently straddle PEA boundaries – as opposed to lying within PEA boundaries – a circumstance that would make it more difficult for PAL spectrum to be used to connect the underserved using private capital and/or CAF support if the PAL areas are enlarged.

Mr. Kohler, who is the Co-Founder and Chief Development Officer of Rise Broadband, discussed a second map (Appendix B) showing where Rise Broadband has deployed 3650-3700 MHz access points in reliance on the CBRS rules adopted in 2015. Mr. Kohler estimated that his company’s investment in connection with these deployments has been approximately \$10 million.

The WISPA representatives also explained that adding a renewal expectancy would create PALs that would be essentially permanent. This would drive up the cost of PALs, act as a *de facto* authorization of spectrum warehousing and provide no ability for future use cases to acquire PALs that may be essential to their business plans. We suggested that the “foothold” credit suggested by Professor Paul Milgrom may be a means to enable incumbents to maintain PALs at subsequent auctions while also ensuring that there is a mechanism for license turnover that does not depend on inefficient secondary markets that have proved to be inaccessible to small providers. Historically, mobile carriers have been unwilling to enter into agreements with smaller competitive providers to make their spectrum available on the secondary market, even in areas where such spectrum is not being used by mobile carriers.

The record demonstrates that WISPs, other non-mobile users, equipment manufacturers, SAS vendors and others have *already made* substantial investments in reliance on the current CBRS rules adopted in 2015. In particular, WISPs have invested millions of dollars in base



stations and CPE that currently only operate in 3650-3700 MHz, but that will, without the need to purchase hardware or roll trucks, have the ability to operate over the entire 3550-3700 MHz band once the Commission has certified SAS and ESC systems. If the changes proposed in the *CBRS NPRM* are enacted and WISPs are therefore precluded from competing in the PAL auctions, these investments (which are substantial in relation to the balance sheets of the small business members of WISPA) will be stranded. Such an outcome is the very definition of realized regulatory risk, and would further impede the ability of WISPs and other competitive providers to attract private capital to connect rural Americans.

In sum, we pointed out that the *CBRS NPRM* would undo rules the Commission unanimously adopted just two years ago. The existing rules will accelerate fixed broadband deployment to rural areas, and support many different business models, including but not limited to those of national carriers. The rules proposed by the *CBRS NPRM*, however, would effectively foreclose access to PALs by any company other than the few large mobile wireless carriers that operate over large geographic areas.

This letter is being filed electronically via the Electronic Comment Filing System in the above-captioned proceeding.

Respectfully submitted,

/s/ Stephen E. Coran  
Stephen E. Coran

Enclosures

cc: Commissioner Brendan Carr  
Nirali Patel

## Appendix A





## Appendix B

